

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

STEVE BULLOCK, in his official
capacity as Governor of Montana;
et al.,

Plaintiffs,

vs.

BUREAU OF LAND
MANAGEMENT; *et al.*,

Defendants.

Case No. 4:20-cv-00062-BMM

**DEFENDANTS' CONSENT
MOTION TO EXTEND DATE
TO RESPOND TO COMPLAINT**

Defendants, Bureau of Land Management, William Pendley, sued solely in his official capacity as the person exercising the authority of the Director of the Bureau of Land Management, U.S. Department of the Interior, and David Bernhardt, sued solely in his official capacity as the Secretary of the Interior, respectfully request that the Court set October 30, 2020 as Defendants' time to respond to Plaintiffs' Complaint. In support of this request, Defendants state as follows:

1. On July 20, 2020, Plaintiffs filed the Complaint. ECF No. 1.
2. On August 17, 2020, the United States Attorney's Office in Great Falls, Montana received a copy of the summons and Complaint that had been addressed to the "United States Attorney for the District of Montana." The parties have not agreed

whether this constitutes effective service on the United States Attorney. Defendants, however, wish to resolve any possible disagreement and establish a date by which Defendants will respond to the Complaint.

3. Federal Rule of Civil Procedure 12(a)(2) provides that “[t]he United States, a United States agency, or a United States officer or employee sued only in an official capacity must serve an answer to a complaint, counterclaim, or crossclaim within 60 days after service on the United States attorney.” Fed. R. Civ. P. 12(a)(2).

4. By operation of Rule 12(a)(2), if service was properly effectuated on August 17, 2020, Defendants’ response to the Complaint would be due October 16, 2020. If service was not properly effectuated on August 17, 2020, then Defendants’ time to respond to the Complaint has not yet begun to run.

5. Defendants, with Plaintiffs’ consent, request that the Court set their time to respond as October 30, 2020, which would be an extension of two weeks from October 16, 2020.

6. Good cause exists for this request. Due to the nature of Plaintiffs’ allegations, the proceedings to date in this case, and the press of other matters, counsel for Defendants require additional time beyond October 16 to prepare a response to the three causes of action asserted in Plaintiffs’ Complaint. Prior to filing, undersigned counsel must also consult with others within the government, including in the Department of the Interior and the Department of Justice. Granting the requested extension will also obviate any dispute that may arise over service.

7. Defendants submit that a response on October 30 will prejudice neither Plaintiffs nor the Court. There are no other current deadlines or schedules set in this case, and the Court has already entered an Order granting Plaintiffs' Expedited Motion for Summary Judgment.

8. Undersigned counsel for Defendants conferred with Plaintiffs' counsel, who indicated that Plaintiffs consent to a two-week extension.

For these reasons, Defendants respectfully request that the Court set October 30, 2020 as the date by which Defendants will respond to the Complaint. A proposed order is attached.

DATED this 12th day of October, 2020.

Respectfully submitted,

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/s/ M. Andrew Zee
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